



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Patent Cooperation Treaty  
Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

JUN 13 2000

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In re Application of	:	
OLIVE, Scott	:	
Application No.: 09/462,717	:	
PCT No.: PCT/AU98/00525	:	
Int. Filing Date: 08 July 1998	:	COMMUNICATION and
Priority Date: 08 July 1997	:	NOTIFICATION OF
Attorney's Docket No.: 2832/FBR	:	ABANDONMENT
For: SLOT MACHINE GAME AND SYSTEM WITH	:	
IMPROVED JACKPOT FEATURE	:	

The above identified application is before the PCT Legal Office on questions arising under 35 U.S.C. 371.

**BACKGROUND**

On 08 July 1998, applicant filed international application No.PCT/AU98/00525, which claimed a priority date of 08 July 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 January 1999. A DEMAND for international preliminary examination was filed 08 February 1999 prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for submitting the basic national fee for entering the national stage in the United States of America expired at midnight on 10 January 2000. (08 January 2000 was a Saturday and 09 January 2000 was a Sunday.)

The application was abandoned on 11 January 2000.

On 11 January 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the authorization to charge the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration; preliminary amendment; and a verified statement (declaration) claiming small entity.

On 21 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The notification set a one-month time limit to respond.

On 10 April 2000, applicant filed a "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" which was accompanied by executed declaration and power of attorney.

### **COMMUNICATION**

The above-identified application was **ABANDONED** on 11 January 2000 for failure to pay the basic national fee 30 month from the priority date for international application no. PCT/AU98/00525.

### **RECOMMENDATION**

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay, (2) a proper reply, (3) the petition fee required by law and (4) a terminal disclaimer and fee in all applications filed before 08 June 1995.

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be accompanied by: (1) a proper reply; (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition fee required by law is \$1210.00 for a small entity.

The filing of any petition under the unintentional standard cannot be intentionally delayed. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay was unintentional. A statement that the delay was unintentional is not appropriate if the petitioner intentionally delayed the filing of a petition for

revival under 37 CFR 1.137(b). There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137: (1) the delay in the reply that originally resulted in the abandonment; (2) the delay in filing an initial petition under 37 CFR 1.137 to revive the application; and (3) the delay in filing a grantable petition under 37 CFR 1.137 to revive the application. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



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